

FREEDOM COURT REPORTING

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 NORTHERN DIVISION 4 5 RICARDO MATTHEWS, et al.,) 6 Plaintiffs,) 7 vs.) CASE NUMBER: 8 TOWN OF AUTAUGAVILLE,) 2:06-CV-185-MHT 9 et al.,) 10 Defendants.) 11 12 DEPOSITION OF LEVAN JOHNSON 13 In accordance with Rule 5(d) of 14 The Alabama Rules of Civil Procedure, as 15 Amended, effective May 15, 1988, I, Cindy 16 Weldon, am hereby delivering to Jim 17 Debardeleben, the original transcript of the 18 oral testimony taken on the 20th day of 19 April, 2007, along with exhibits. 20 Please be advised that this is the 21 same and not retained by the Court Reporter, 22 nor filed with the Court. 23</p>	<p>1 AGREED that it shall not be necessary for 2 any objections to be made by counsel to any 3 questions, except as to form or leading 4 questions, and that counsel for the parties 5 may make objections and assign grounds at 6 the time of trial, or at the time said 7 deposition is offered in evidence, or prior 8 thereto. 9 IT IS FURTHER STIPULATED AND 10 AGREED that notice of filing of the 11 deposition by the Commissioner is waived. 12 13 14 15 16 17 18 19 20 21 22 23</p>
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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 NORTHERN DIVISION 4 5 RICARDO MATTHEWS, et al.,) 6 Plaintiffs,) 7 vs.) CASE NUMBER: 8) 2:06-CV-185-MHT 9 TOWN OF AUTAUGAVILLE,) 10 et al.,) 11 Defendants.) 12 13 STIPULATION 14 IT IS STIPULATED AND AGREED, by 15 and between the parties through their 16 respective counsel, that the deposition of 17 LEVAN JOHNSON, may be taken before Cindy 18 Weldon, Certified Shorthand Reporter, 19 Commissioner and Notary Public, at the 20 offices of Nix, Holtsford, 4001 Carmichael 21 Road, Montgomery, Alabama, on April the 22 20th, 2007 at 9:50 a.m. 23 IT IS FURTHER STIPULATED AND</p>	<p>1 APPEARANCES 2 3 FOR THE PLAINTIFF: 4 MR. JIM DEBARDELABEN 5 DEBARDELABEN, WESTRY 6 1505 MADISON AVENUE 7 MONTGOMERY, ALABAMA 36107 8 9 FOR THE DEFENDANT: 10 MR. RICK HOWARD 11 NIX, HOLTSFORD 12 4001 CARMICHAEL ROAD 13 MONTGOMERY, ALABAMA 36106 14 15 ALSO PRESENT: 16 MR. WYATT SEGERS 17 MR. DONNIE MARTIN 18 19 20 21 22 23</p>

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**PLAINTIFF'S
EXHIBIT**

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<p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE</p> <p>4 MR. DEBARDELABEN 6</p> <p>5 MR. HOWARD 69</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p>1 A. Levan Johnson.</p> <p>2 Q. What's your social security</p> <p>3 number?</p> <p>4 A. [REDACTED]</p> <p>5 Q. What's your driver's license</p> <p>6 number?</p> <p>7 A. [REDACTED]</p> <p>8 Q. Do you have a current Alabama</p> <p>9 driver's license?</p> <p>10 A. Yes, I do.</p> <p>11 Q. How are you presently employed?</p> <p>12 A. I am presently employed as the</p> <p>13 acting chief of police of the Town of</p> <p>14 Autaugaville.</p> <p>15 Q. You said acting. What do you mean</p> <p>16 by acting?</p> <p>17 A. Just as I stated, the acting chief</p> <p>18 of police for the Town of Autaugaville.</p> <p>19 Q. You're not the -- hired as chief</p> <p>20 of police?</p> <p>21 A. I am titled and paid for that</p> <p>22 position. But I have never been sworn in as</p> <p>23 chief of police for that position.</p>
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<p>1 LEVAN JOHNSON,</p> <p>2 after first being duly sworn, testified</p> <p>3 as follows:</p> <p>4 EXAMINATION BY MR. DEBARDELABEN:</p> <p>5 THE COURT REPORTER: Usual</p> <p>6 stipulations?</p> <p>7 Q. Mr. Johnson, this is a Federal</p> <p>8 deposition. You have the right to read and</p> <p>9 sign or the right to waive reading and</p> <p>10 signing. You might want to talk to your</p> <p>11 lawyer and see what you want to do.</p> <p>12 MR. HOWARD: We'll read and sign.</p> <p>13 Q. You can't change anything. Only</p> <p>14 if she got it wrong. If you think she got</p> <p>15 it wrong, I understand you're supposed to</p> <p>16 say, you got this wrong and check with her.</p> <p>17 MR. HOWARD: It's not substantive</p> <p>18 stuff. If you say your address is 150 and</p> <p>19 she gets it down as 149, that's what's</p> <p>20 subject to change. Nothing else. But yes,</p> <p>21 we will read and sign.</p> <p>22 Q. Would you state your name,</p> <p>23 please.</p>	<p>1 Q. Is there any reason for that?</p> <p>2 A. Not that I'm aware of, sir.</p> <p>3 Q. When did you get the title and pay</p> <p>4 of a chief of police in the Town of</p> <p>5 Autaugaville?</p> <p>6 A. January 2004.</p> <p>7 Q. Were you employed by the Town of</p> <p>8 Autaugaville prior to that?</p> <p>9 A. No, sir.</p> <p>10 Q. Where were you employed prior to</p> <p>11 Autaugaville?</p> <p>12 A. Directly, Town of Hayneville.</p> <p>13 Q. And what was your position there?</p> <p>14 A. I was a police officer.</p> <p>15 Q. And how long were you with the</p> <p>16 Town of Hayneville?</p> <p>17 A. Approximately about five months,</p> <p>18 five and a half months approximately.</p> <p>19 Q. Why did you leave the Town of</p> <p>20 Hayneville?</p> <p>21 A. I went to work for the Town of</p> <p>22 Autaugaville.</p> <p>23 Q. Okay. Where were you employed</p>

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<p>1 prior to the Town of Hayneville?</p> <p>2 A. Well, I was -- When I first</p> <p>3 started with the Town of Hayneville, it was</p> <p>4 a part-time position because I was also</p> <p>5 employed full-time by the Army National</p> <p>6 Guard, stationed at George C. Wallace</p> <p>7 headquarters in Montgomery, Alabama. When I</p> <p>8 left that detail, I took on the position</p> <p>9 full-time.</p> <p>10 Q. When did you take on the position</p> <p>11 full-time with the Town of Hayneville?</p> <p>12 A. Say November. Approximately</p> <p>13 November.</p> <p>14 Q. Of what year?</p> <p>15 A. Of 2003.</p> <p>16 Q. Was that your first law</p> <p>17 enforcement job?</p> <p>18 A. No, sir.</p> <p>19 Q. Where was your first law</p> <p>20 enforcement job?</p> <p>21 A. It was in Clio, Alabama.</p> <p>22 Q. And when was that?</p> <p>23 A. It was in July of 1998.</p>	<p>1 A. Approximately six months.</p> <p>2 Q. And where did you go then?</p> <p>3 A. I went to the City of Valley.</p> <p>4 Q. City of Valley. What was your</p> <p>5 position at the City of Valley?</p> <p>6 A. I was a police officer.</p> <p>7 Q. How long did you stay at the City</p> <p>8 of Valley?</p> <p>9 A. I was there until July of 2001.</p> <p>10 Q. Where did you go in July of 2001?</p> <p>11 A. I went to the Town of Hurtsboro.</p> <p>12 Q. How long -- What was your position</p> <p>13 at the Town of Hurtsboro?</p> <p>14 A. I was a police officer.</p> <p>15 Q. How long did you stay with the</p> <p>16 Town of Hurtsboro?</p> <p>17 A. Until August of 2001.</p> <p>18 Correction. October of 2001 when I was</p> <p>19 activated for September 11 duties.</p> <p>20 Q. Okay. How long were you -- Where</p> <p>21 were you activated?</p> <p>22 A. I was activated Alpha Company 167</p> <p>23 out of Valley, Alabama. Deployed to Fort</p>
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<p>1 Q. And how long did you work in Clio?</p> <p>2 A. For one and a half years</p> <p>3 approximately.</p> <p>4 Q. So you left sometime in -- was it</p> <p>5 '99 or 2000 in Clio?</p> <p>6 A. I left right at January of 2000.</p> <p>7 I went to work for the Barbour County</p> <p>8 Sheriff's Department.</p> <p>9 Q. Okay. And how long did you work</p> <p>10 for the Barbour County Sheriff's Department?</p> <p>11 A. Approximately six months.</p> <p>12 Q. Why did you leave the Town of</p> <p>13 Clio?</p> <p>14 A. To go to work for the Barbour</p> <p>15 County Sheriff's Department.</p> <p>16 Q. What was your position in the Town</p> <p>17 of Clio?</p> <p>18 A. I was a police officer.</p> <p>19 Q. What was your position for the</p> <p>20 Barbour County Sheriff's Department?</p> <p>21 A. I was a deputy sheriff.</p> <p>22 Q. And how long were you a deputy</p> <p>23 sheriff?</p>	<p>1 Rucker, Alabama from October 5, 2001 to</p> <p>2 October 5, 2002.</p> <p>3 Q. What did you do after you got off</p> <p>4 active duty?</p> <p>5 A. I returned back to the Town of</p> <p>6 Hurtsboro.</p> <p>7 Q. How long did you stay there?</p> <p>8 A. About another month until I got</p> <p>9 reassigned to Montgomery, Alabama, January</p> <p>10 of -- I took a couple of weeks off. So</p> <p>11 about a month and a half.</p> <p>12 Q. Reassigned to what?</p> <p>13 A. To Montgomery, George C. Wallace</p> <p>14 force protection guard detail.</p> <p>15 Q. And you stayed here in Montgomery</p> <p>16 until you went full-time with the City of</p> <p>17 Hayneville?</p> <p>18 A. I lived in Montgomery until</p> <p>19 through Hayneville and for about a year,</p> <p>20 approximately a year, little more than a</p> <p>21 year in the City of Montgomery while I still</p> <p>22 worked for Autaugaville.</p> <p>23 Q. Okay. And where do you live now?</p>

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1 A. I live at 234 Club View Drive,
2 Prattville, Alabama.
3 **Q. Do you have any relatives within**
4 **about a hundred mile radius of the City of**
5 **Montgomery?**
6 A. In a hundred mile radius?
7 **Q. Yes.**
8 A. I do, sir.
9 **Q. What's their name? And I'm only**
10 **interested in relatives over nineteen years**
11 **of age. I'm not interested in anybody from**
12 **Dallas County west.**
13 A. My relatives are in Russell
14 County, Phenix City.
15 **Q. What are their names?**
16 A. Claudie May Spivey.
17 **Q. And what's the relationship to**
18 **you?**
19 A. She's my grandmother.
20 **Q. Okay. Who else, please?**
21 A. Jack Spivey.
22 **Q. That's your grandfather?**
23 A. That's correct.

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1 **Q. Who else, please?**
2 A. Jeremy Greer and Josh Greer. They
3 are two cousins. Barbara Ann Delong is an
4 aunt. Glenda Carswell is an aunt. Sandra
5 -- I'm trying to think of her husband's new
6 name, the last name. Correction.
7 Brandon Anglin, he's a cousin.
8 Bobby Joe Greer. Lee Carswell, cousin. Kip
9 Carswells, cousin. Glenda Carswell, she's
10 an aunt. I believe that would about cover
11 it.
12 **Q. Okay. Have you ever been sued**
13 **before?**
14 A. No, sir.
15 **Q. Prior to this suit, you've never**
16 **had any suits filed against you?**
17 A. No, sir.
18 **Q. What about --**
19 A. Oh, the Bogan suit. That came at
20 the same time. Correction.
21 **Q. Have you ever been arrested**
22 **before?**
23 A. As a juvenile.

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1 **Q. When was that?**
2 A. I can't remember the year, sir.
3 **Q. Where was that?**
4 A. It was in Florida.
5 **Q. How did you come to get the job at**
6 **the Town of Autaugaville?**
7 A. The current chief resigned and the
8 mayor asked me if I would fill the position.
9 **Q. How did you -- How did he know to**
10 **ask you?**
11 A. I do not know, sir.
12 **Q. Did you know Curtis Jackson prior**
13 **to you becoming police chief?**
14 A. No, sir.
15 **Q. Did you apply for the position?**
16 A. No, sir.
17 **Q. Did you interview for the**
18 **position?**
19 A. With the mayor, sir.
20 **Q. Did you interview with the**
21 **council?**
22 A. No, sir.
23 **Q. What are your duties as police**

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1 **chief?**
2 A. I have several duties as police
3 chief. But it's -- I'll use the short
4 version. It's to oversee the day-to-day
5 operations of the police department,
6 budgeting, human resource and personnel
7 issues, evidence technician, community
8 relations, training of police officers,
9 personnel policies and manuals, et cetera.
10 **Q. Do you assign the police officers**
11 **to their time they work?**
12 A. They are given a schedule, yes,
13 sir.
14 **Q. Are you familiar with the Alabama**
15 **Peace Officers Standards and Training**
16 **Commission?**
17 A. Yes, I am aware of that
18 organization.
19 **Q. How do you get police officers to**
20 **work for the City of Autaugaville?**
21 A. Well, I advertise that we have an
22 opening and will receive applications. Once
23 applications are received, their employment

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<p style="text-align: right;">Page 17</p> <p>1 references are checked, their background 2 references are checked. 3 Criminal and driving histories 4 that are checked. They are also responsible 5 for signing a waiver to these effects for 6 background investigations. 7 They're responsible for giving me 8 appropriate documentation, driver's license, 9 social security cards, birth certificates 10 and any and all training documents relating 11 to any experience that they may have 12 involving law enforcement or security or 13 military. 14 If they are in the military, they 15 are responsible for giving me a copy of 16 their DD214. 17 Q. You said you were acting police 18 chief of the City of Autaugaville? 19 A. The Town of Autaugaville, yes, 20 sir. 21 Q. Town of Autaugaville. I'm sorry. 22 And you have never been named police chief; 23 is that correct?</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Has there ever been any time when 2 you were the police -- I think they call it 3 law enforcement officer -- that you did not 4 get in your required training within the one 5 year period of time? 6 A. Not that I'm aware of, no, sir. 7 Q. So all the time you've been acting 8 police chief for the Town of Autaugaville, 9 you always got in at least twenty hours 10 during that year's period of time? 11 A. Of executive level training, 12 that's correct, sir. 13 Q. What do you mean by executive 14 level training? 15 A. Training that which is approved 16 through the Alabama Peace Officers Standards 17 and Training Commission that is recognized 18 as executive training. 19 Q. Now, are you aware -- and you can 20 look at the standard out there -- that Rule 21 650-X-2 states the training requirements for 22 police officers or law enforcement officers 23 for the State of Alabama?</p>
<p style="text-align: right;">Page 18</p> <p>1 A. I have never been sworn in by the 2 mayor as the chief of police for the Town of 3 Autaugaville. 4 Q. Do you know of any reason why you 5 have not been sworn in as the police chief? 6 A. I've already answered that 7 question, sir. 8 MR. HOWARD: Do it again. 9 A. Not that I'm aware of, sir. 10 Q. Okay. How many hours of 11 continuing education courses do you take a 12 year? 13 A. It depends on the year. I'm 14 required to take a minimum of twenty of 15 executive level training. 16 Q. And that's for police chief? 17 A. That's correct. 18 Q. And how many hours did you take 19 last year? 20 A. Over twenty. But I'd have to go 21 through the records to see approximately how 22 many or specifically how many I did take 23 last year.</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Am I aware of this rule? 2 Q. Yes, sir. 3 A. Yes, I am aware of this rule. 4 Q. When did you become aware of this 5 rule? 6 A. I first read over this section, 7 this particular section of this rule when 8 the -- it was the loss -- I believe when 9 actually it was filed in the newspaper, it 10 was brought up about it. I started 11 conducting some research into this when the 12 lawsuit was filed. 13 Q. And prior to this lawsuit being 14 filed in February of 2006, did you ever go 15 over this rule? 16 A. I have read it. But I -- If you 17 would ask me about it, I would have to go 18 back and read it again to understand the -- 19 to remember the specifics of what it said. 20 Q. Okay. Are you familiar -- I want 21 you to look at Section 3-A-2. Do you allow 22 your police officers to patrol for the 23 purpose of protection, prevention,</p>

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<p>1 suppression of crime? 2 A. Do I allow it, yes, sir. 3 Q. Is that part of their jobs? 4 A. That is part of their job, yes, 5 sir. 6 Q. When they patrol, do they enforce 7 the traffic and highway laws of the State of 8 Alabama? 9 A. Well, traffic in general, yes, 10 sir. 11 Q. Now, do your police officers have 12 the power of arrest? 13 A. Yes, they do, sir. 14 Q. Okay. When it says will be under 15 direct control and supervision of a 16 certified law enforcement officer, how do 17 you interpret that? 18 A. I would define it just being able 19 to maintain contact and communications with 20 them to be able to respond to a situation or 21 a problem that arises as it occurs and give 22 them direction and supervision as to what 23 they may -- and need to do at that</p>	<p>1 direct supervision? 2 MR. HOWARD: Object to the form. 3 Q. If you know. 4 A. His statement to me was that it's 5 always -- and again, it was in 2006 when 6 this is said. So I'm not -- I don't know if 7 I'm repeating him word-for-word -- that it 8 is generally known by everybody that the 9 rule means that an uncertified officer has 10 to be within -- in a -- correction. 11 It did not mean that a supervisor 12 could be sitting in his office while a 13 patrol officer that was uncertified was out 14 patrolling the streets. That's what he 15 advised me. 16 Q. Basically he told you, you had to 17 be in the car with him? 18 A. He didn't use those words, no, 19 sir. 20 Q. But you couldn't supervise 21 somebody from the office? 22 MR. HOWARD: Object to the form. 23 Q. Is that what he basically said?</p>
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<p>1 particular time involving the situation that 2 they are involved in. 3 Q. Have you ever discussed this with 4 anybody at the Alabama Peace Officers 5 Standards and Training Commission? 6 A. Yes, sir, I have. 7 Q. Who did you discuss it with? 8 A. I talked with Allen Benefield. 9 Q. When did you talk to Mr. 10 Benefield? 11 A. When? 12 Q. Yes, sir. 13 A. First it was at a chief's 14 conference in Montgomery. So it would have 15 been in February. And this lawsuit was 16 filed in what year? 17 MR. HOWARD: 2006. 18 THE WITNESS: What month in 2006? 19 MR. HOWARD: February 28th, 2006. 20 So you didn't get it until March 2006. 21 A. I knew about it prior to. Yes, I 22 spoke with him in February of 2006. 23 Q. What was his interpretation of</p>	<p>1 A. That's his language of it. 2 Q. Okay. 3 A. And I also asked him at that time 4 why was the definition not defined. And 5 again, he responded by that's just the 6 general understanding, that the people 7 should know that. They should know that and 8 understand it to be that. 9 Q. Okay. Prior to that conversation 10 with Chief Benefield, had you ever asked 11 anyone if you could supervise from the 12 office and have people out patrolling? 13 A. Well, I talked to a couple of 14 different people during that time period. I 15 contacted the APOSTC and I did speak with a 16 female representative there. 17 Q. Who was that? 18 A. I do not recall her name, sir. 19 Q. Okay. When was that? 20 A. It would have been around February 21 to March, during that time period of 2006. 22 Q. And what did that female 23 representative tell you?</p>

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<p style="text-align: right;">Page 25</p> <p>1 A. She advised that the person would 2 have to be in the vehicle with them. 3 Q. Has anyone with APOSTC ever told 4 you anything that the people have to be in 5 the vehicle? 6 A. Rephrase your question. 7 Q. Has anyone that represented the 8 Alabama Peace Officers Standards and 9 Training Commission ever told you anything 10 other than an uncertified officer to be on 11 patrol would have to be in the vehicle with 12 a certified officer? 13 A. Not with APOSTC, no, sir. 14 Q. Are you aware that APOSTC is the 15 agency of the State of Alabama who sets 16 certification standards for law enforcement 17 officers of the State of Alabama? 18 A. Yes, sir. 19 Q. When you interviewed applicants 20 for a police officer in the Town of 21 Autaugaville, what requirements were 22 necessary for them to become a police 23 officer?</p>	<p style="text-align: right;">Page 27</p> <p>1 his firearm once he's been certified on his 2 firearm. He's issued a firearm, but he's 3 only able to carry it once he's been 4 certified on it. 5 Q. What do you mean certified? 6 A. Meaning he has to go through a 7 qualification course that's been approved by 8 the Alabama Peace Officers Standards and 9 Training and he has to have a firearm's 10 instructor sign off that he has passed and 11 met the requirements. 12 Q. Are the patrol cars with the City 13 of -- excuse me -- the Town of Autaugaville 14 equipped with radar equipment? 15 A. Yes, sir, they are. 16 Q. What training is necessary before 17 an officer can operate the radar equipment? 18 A. Well, the requirement is that they 19 must be certified on radar before they are 20 allowed to write citations involving 21 speeding. 22 Q. Now, prior to these officers -- 23 Now, has that been certified on the radar by</p>
<p style="text-align: right;">Page 26</p> <p>1 A. Requirements that they pass a 2 criminal background investigation, that they 3 have a GED or high school diploma. Those 4 would be the minimum requirements, that they 5 be able to pass a criminal background 6 investigation and that they are eligible 7 because they have a GED or a high school 8 diploma under APOSTC standards. 9 Q. And that's the only requirement 10 you have? 11 A. Well, I follow the requirements of 12 APOSTC when it comes to that, sir. 13 Q. Now, when an officer is hired by 14 the Town of Autaugaville, what equipment is 15 he issued? 16 A. He is issued a -- He's issued 17 uniforms. He is issued all appropriate gear 18 that's associated with his position. He's 19 issued a duty belt, handcuffs, keys to the 20 office, a badge, holders that hold different 21 types of equipment in it. 22 Q. Is he issued a firearm? 23 A. He is issued -- He's able to carry</p>	<p style="text-align: right;">Page 28</p> <p>1 the State of Alabama? 2 A. The State of Alabama isn't 3 necessarily the organization that will 4 certify. There's several different types of 5 organizations out there that certify. 6 Sometimes they are certified in the Police 7 Academy. 8 Sometimes they are certified at 9 other training sites. Like Montgomery P.D., 10 for example, has a training facility there 11 and they do radar certification. 12 Sometimes organizations will come 13 out and certify people on site, take them 14 through a training class. 15 Q. And those organizations are 16 approved by the Alabama Peace Officers 17 Standards and Training Commission, aren't 18 they? 19 A. Well, sir, I don't believe there's 20 a requirement that they have to be approved 21 by the Alabama Peace Officers Standards and 22 Training Commission. 23 Q. Can you tell me one agency that</p>

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<p style="text-align: right;">Page 29</p> <p>1 certifies radar in the State of Alabama that</p> <p>2 is not approved by the Alabama Peace</p> <p>3 Officers Standards and Training Commission?</p> <p>4 A. Can you rephrase the question?</p> <p>5 Q. Can you give me one agency in the</p> <p>6 State of Alabama that is certified to</p> <p>7 operate a radar but is not certified by</p> <p>8 APOSTC?</p> <p>9 A. Can I give you one agency?</p> <p>10 Q. Yes, sir.</p> <p>11 A. That is not certified by APOSTC?</p> <p>12 Q. Yes.</p> <p>13 A. APOSTC does not certify people on</p> <p>14 radar.</p> <p>15 Q. Okay. Who trains the officers to</p> <p>16 write tickets?</p> <p>17 A. Who trains them?</p> <p>18 Q. Yes, sir.</p> <p>19 A. Well, it depends. Either they may</p> <p>20 have had previous training prior to getting</p> <p>21 to our agency. But every officer that comes</p> <p>22 to work for my department is required to go</p> <p>23 through training prior to me allowing them</p>	<p style="text-align: right;">Page 31</p> <p>1 A. Two weeks is just an</p> <p>2 approximation. If I feel like the officer</p> <p>3 needs additional training, then he will stay</p> <p>4 with me. If I feel like the officer has the</p> <p>5 capability at that time to ride by himself,</p> <p>6 I will allow him to ride by himself.</p> <p>7 And at that time, when I feel like</p> <p>8 -- well, when I feel comfortable that he's</p> <p>9 -- has that ability.</p> <p>10 Q. Now, you realize now, don't you,</p> <p>11 that the Alabama Peace Officers Standards</p> <p>12 and Training Commission requires more than</p> <p>13 what you were requiring?</p> <p>14 MR. HOWARD: Object to the form.</p> <p>15 Tell him what you know or don't know.</p> <p>16 A. No, sir, it does not. State that,</p> <p>17 sir.</p> <p>18 Q. So you don't -- You believe -- You</p> <p>19 do not believe that direct control and</p> <p>20 supervision by a certified law enforcement</p> <p>21 officer requires the law enforcement officer</p> <p>22 to be in the vehicle with the uncertified</p> <p>23 police officer?</p>
<p style="text-align: right;">Page 30</p> <p>1 to get on the road by themselves.</p> <p>2 This training covers policy and</p> <p>3 procedure manuals. It covers rules and</p> <p>4 regulations. It covers becoming aware and</p> <p>5 acclimated with the city limits, with</p> <p>6 information that they need to put -- if</p> <p>7 they're writing a ticket, the information</p> <p>8 they need to put on a ticket.</p> <p>9 So they go -- Training is</p> <p>10 generally about two weeks long that they</p> <p>11 ride with me. Approximately two weeks on,</p> <p>12 they ride with me. They study policy and</p> <p>13 procedure manuals.</p> <p>14 And during this time, they also</p> <p>15 get certified on their weapon and firearms</p> <p>16 and just a multitude of different things in</p> <p>17 order to get them acclimated to our agency</p> <p>18 and what our rules and regulations are. And</p> <p>19 we document that training.</p> <p>20 Q. So after they've ridden with you</p> <p>21 for two weeks and you train them, you put</p> <p>22 them out on the road by themselves to</p> <p>23 patrol?</p>	<p style="text-align: right;">Page 32</p> <p>1 A. No, sir. Administrative view, no,</p> <p>2 sir, I do not believe that is the definition</p> <p>3 of it.</p> <p>4 Q. What do you base that opinion on?</p> <p>5 A. Well, sir, I've worked in</p> <p>6 management since I was nineteen years of</p> <p>7 age. And in every management position that</p> <p>8 I've held, I've never been next to every</p> <p>9 employee while they're performing functions</p> <p>10 or duties, neither have I ever seen any</p> <p>11 other manager stand directly over an</p> <p>12 individual employee twenty-four seven to</p> <p>13 supervise every movement that he made when</p> <p>14 he was carrying out his duties.</p> <p>15 Basically it would be impossible</p> <p>16 to do so, especially if you were a large</p> <p>17 organization and had multiple employees.</p> <p>18 You couldn't stand over every employee.</p> <p>19 Q. Now, what management positions</p> <p>20 have you worked in?</p> <p>21 A. Prior to law enforcement, I was in</p> <p>22 the restaurant business and I was management</p> <p>23 for Burger King and had between fifteen</p>

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<p>1 employees on a given shift under my 2 supervision. 3 Q. Did any of those employees carry a 4 firearm? 5 A. No, sir. 6 Q. Did any of those employees that 7 you managed prior to law enforcement have 8 the right to arrest people? 9 A. I don't know, sir, if they were 10 certified, if they worked for -- had another 11 job somewhere else. 12 Q. Under your employment. You were 13 supervisor. 14 A. While they were on duty working in 15 the confines of the organization, no, sir. 16 I'm not aware. Other than citizens arrest. 17 Q. Would any of those employees that 18 you were working for when you were the 19 management be put in a position with their 20 job or possibly put in a position say with 21 their job where they would have to pull a 22 weapon and fire at a person? 23 A. No, sir.</p>	<p>1 with, the ones that replaced us for force 2 protection. 3 Q. What were your usual hours -- What 4 are your usual hours at work at the Town of 5 Autaugaville? 6 A. Well, I list myself on the 7 schedule between 9:00 and 5:00. But, I 8 mean, I work different hours different 9 times. I mean, I'm on -- in my position, 10 it's never really standard for me to work 11 9:00 to 5:00. Sometimes it's later and 12 earlier. 13 Q. What is crime protection patrol? 14 A. What is what, sir? 15 Q. What is meant by crime protection 16 patrol? 17 A. Crime protection and patrol? 18 Q. Yes. The purpose of the -- What 19 do you define patrol operation for the 20 purpose of protection, prevention and 21 suppression of crime to mean? 22 MR. HOWARD: Is that in that? 23 MR. DEBARDELABEN: Yes.</p>
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<p>1 Q. Is the only position you're aware 2 of that would have to pull a weapon and fire 3 it at a person besides the military is the 4 position of a law enforcement officer? 5 A. No, sir. 6 Q. Which other one is there? 7 A. Security agents. 8 Q. Security agents. What's security 9 agencies do you know of that carry firearms? 10 A. There's -- I don't know the name 11 of the agency, but I know that the military 12 employs a security agency now to take over 13 force protection. And those security guards 14 there carry firearms. 15 Q. Are you talking about the Black 16 Water people? 17 A. The what now? 18 Q. Black Water? You don't know what 19 Black Water is? 20 A. No, sir. 21 Q. Okay. 22 A. I know it's a private security 23 agency that the military has contracted</p>	<p>1 MR. HOWARD: Let him read that in 2 the context. 3 Q. That's in Rule 6-X-2 3-A-2. 4 A. That would come with general 5 patrol as an officer is out there making 6 themselves visible. If he sees the crime 7 happening, he can detect it. 8 Sometimes presence is sufficient 9 enough just to prevent crime when people see 10 and also the same thing with suppression. 11 As we're trained -- The way I've been 12 trained is that the first level of force is 13 an officer's presence. 14 Q. Okay. What training did you give 15 these officers that are involved in this 16 lawsuit -- we're talking about Officer 17 Segers, McCollum, Martin -- in enforcing the 18 criminal laws of this state before you put 19 them out on patrol? 20 A. Well, again, they rode with me. 21 We conducted traffic stops together. We 22 went over various types of traffic laws, 23 criminal laws.</p>

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<p style="text-align: right;">Page 37</p> <p>1 Just a multitude of different</p> <p>2 things in areas that they may face as they</p> <p>3 come across out there as a police officer in</p> <p>4 their official duty.</p> <p>5 Q. Did they have any training on</p> <p>6 conducting DUI examinations?</p> <p>7 A. Not unless we -- I mean, not any</p> <p>8 training that would be in the sense of</p> <p>9 receiving a certification certificate for.</p> <p>10 Q. Did they have any training on</p> <p>11 recognizing illegal drugs?</p> <p>12 A. Again, if there was a traffic stop</p> <p>13 and we happened to arrest somebody that had</p> <p>14 drugs on them, they've just received</p> <p>15 on-the-job training in that particular area.</p> <p>16 Q. Did they have any training on what</p> <p>17 to do in a volatile situation?</p> <p>18 A. Again, when we respond to calls,</p> <p>19 they would get training, on-the-job training</p> <p>20 in that situation there. But I will point</p> <p>21 out that even at the Police Academy, there's</p> <p>22 not a training class that they do on</p> <p>23 identification of drugs.</p>	<p style="text-align: right;">Page 39</p> <p>1 instructions on safety.</p> <p>2 Q. Is there any training that goes</p> <p>3 along with that on when you employ lethal</p> <p>4 force?</p> <p>5 A. No. That's left up to each</p> <p>6 independent agency on their policies of use</p> <p>7 and force.</p> <p>8 Q. And your policies on use of force</p> <p>9 -- when I say yours, I'm talking about the</p> <p>10 Town of Autaugaville -- where did you get</p> <p>11 them?</p> <p>12 A. Well, there was policies and</p> <p>13 procedures manuals prior to me being there</p> <p>14 that I reviewed and went over myself. I am</p> <p>15 also in the process of revamping and coming</p> <p>16 out with a new policy and procedure manual.</p> <p>17 But the one that they specifically</p> <p>18 trained on was the one that I reviewed when</p> <p>19 I arrived. I read over the policies and</p> <p>20 procedures and that's the ones that they</p> <p>21 went by when they arrived, the same policies</p> <p>22 and procedures.</p> <p>23 Q. You remember yesterday Mr.</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. Did you have --</p> <p>2 A. That I'm aware of.</p> <p>3 Q. Did you have any training for</p> <p>4 these people on what to do God forbid if</p> <p>5 somebody they stopped pulled a weapon on</p> <p>6 them?</p> <p>7 A. Sir, they were certified on their</p> <p>8 firearm prior to being able to carry their</p> <p>9 firearm. They were trained on policies and</p> <p>10 procedures on use of force and they signed</p> <p>11 off on reading these policies and procedures</p> <p>12 and that they understood and were aware of</p> <p>13 how to follow them.</p> <p>14 Q. So firearm training certification,</p> <p>15 that means you can hit a target at so many</p> <p>16 yards out of so many shots, doesn't it? You</p> <p>17 have to have a certain score?</p> <p>18 A. Correct. That's required by</p> <p>19 APOSTC. It's a seventy percent score, sir.</p> <p>20 Q. Right. And is there any safety</p> <p>21 training that goes along with that firearm</p> <p>22 certification?</p> <p>23 A. The instructor gives them</p>	<p style="text-align: right;">Page 40</p> <p>1 Matthews' deposition?</p> <p>2 A. Yes, I was present.</p> <p>3 Q. He mentioned a fact that he was</p> <p>4 stopped July the 3rd, 2006. Do you recall</p> <p>5 that?</p> <p>6 A. He was stopped at a safety check</p> <p>7 point, yes, sir.</p> <p>8 Q. Where was the safety check point?</p> <p>9 A. I believe that safety check point</p> <p>10 was conducted on County Road 19, I believe.</p> <p>11 Q. Okay. What was the purpose of the</p> <p>12 safety check point?</p> <p>13 A. Well, we were conducting overtime</p> <p>14 enforcement details which was funded by</p> <p>15 ADCA, the Alabama Department of Community</p> <p>16 Affairs. It's a -- All our check points are</p> <p>17 the same.</p> <p>18 There are safety check points to</p> <p>19 make sure people have their driver's license</p> <p>20 and that they are wearing their seats belts,</p> <p>21 that they're not drinking and driving,</p> <p>22 things of that sort.</p> <p>23 Q. Who established that safety check</p>

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<p style="text-align: right;">Page 41</p> <p>1 point that day?</p> <p>2 A. I was the operations planner for</p> <p>3 that day.</p> <p>4 Q. And what are the standards for</p> <p>5 conducting a safety check point?</p> <p>6 A. Standards as far as what the rule</p> <p>7 is of how we conduct them?</p> <p>8 Q. No, sir. Why do you conduct them?</p> <p>9 A. We conduct them for several</p> <p>10 different reasons. But it's to provide</p> <p>11 safety for our motorists that are out there</p> <p>12 to reduce accidents.</p> <p>13 Q. That was probably a bad question.</p> <p>14 How do you decide to conduct one at a</p> <p>15 particular location on a particular day?</p> <p>16 Are there any standards for that?</p> <p>17 A. Well, it's not about -- the plans</p> <p>18 were given -- When we receive a contract</p> <p>19 from ADCA, there are dates on there that we</p> <p>20 are to focus on, particular dates that we</p> <p>21 must spend the money between this date and</p> <p>22 this date.</p> <p>23 These are dates that the State has</p>	<p style="text-align: right;">Page 43</p> <p>1 Q. On County Road 19?</p> <p>2 A. That's where I believe the</p> <p>3 location was. Again, I'd have to go back to</p> <p>4 the records.</p> <p>5 Q. Did you have any other check</p> <p>6 points from July the 3rd, 2006 besides that</p> <p>7 one?</p> <p>8 A. I'd have to reflect back on the</p> <p>9 records. We did several different details</p> <p>10 during that time frame. More than just July</p> <p>11 the 3rd. I think we did one July 4th and</p> <p>12 July 2nd and there were some other dates and</p> <p>13 time. I can provide the records for every</p> <p>14 detail that we did and who was there.</p> <p>15 Q. Do you recall Mr. Ricardo Matthews</p> <p>16 being arrested?</p> <p>17 A. Yes, sir, I do.</p> <p>18 Q. Who arrested him --</p> <p>19 MR. HOWARD: What date?</p> <p>20 Q. -- on July 3rd, 2006?</p> <p>21 A. I did, sir.</p> <p>22 Q. For what reason?</p> <p>23 A. He had a warrant out for his</p>
<p style="text-align: right;">Page 42</p> <p>1 determined as areas where there's more</p> <p>2 traffic fatalities and accidents. The way I</p> <p>3 decide what location we actually set up on</p> <p>4 is based on our own individual accident</p> <p>5 reports and problem areas that we have</p> <p>6 inside our town.</p> <p>7 Q. So the location is up to your</p> <p>8 discretion?</p> <p>9 A. That's correct.</p> <p>10 Q. Now, who was the officer from the</p> <p>11 Town of Autaugaville that was present at</p> <p>12 that check point?</p> <p>13 A. Sir, I'd have to go back to the</p> <p>14 records to be able to tell you who all was</p> <p>15 involved in that check point.</p> <p>16 Q. Can you provide those records to</p> <p>17 your attorney?</p> <p>18 A. Yes, I can.</p> <p>19 Q. So he can provide them to me.</p> <p>20 MR. HOWARD: Would you send me a</p> <p>21 request, too, just so I can remember. Yes,</p> <p>22 go ahead and get those together.</p> <p>23 A. Well, I have them.</p>	<p style="text-align: right;">Page 44</p> <p>1 arrest.</p> <p>2 Q. What was the warrant for?</p> <p>3 A. Failure to appear.</p> <p>4 Q. Failure to appear where?</p> <p>5 A. The Town of Autaugaville.</p> <p>6 Q. On what charge?</p> <p>7 A. I believe it was on a failure to</p> <p>8 appear for driving while suspended, sir.</p> <p>9 Q. And when was he issued that</p> <p>10 ticket?</p> <p>11 A. I'd have to reflect back on the</p> <p>12 records, sir.</p> <p>13 Q. Let's see. Do you know who issued</p> <p>14 him that ticket?</p> <p>15 A. I'd have to reflect back on the</p> <p>16 records, sir.</p> <p>17 Q. When he was arrested, tell me what</p> <p>18 happened.</p> <p>19 A. He was transported to the</p> <p>20 Autaugaville Police Department, at which</p> <p>21 time I parked the vehicle. And I actually</p> <p>22 left him inside the vehicle and went inside</p> <p>23 and grabbed the warrant and came back out to</p>

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<p>1 the car to -- ended up transporting him to 2 the Autauga County Metro Jail.</p> <p>3 Q. All right. Who was with you when 4 you transported him?</p> <p>5 A. I transported him to the police 6 department by myself.</p> <p>7 Q. Okay. Anybody else with you?</p> <p>8 A. No, sir.</p> <p>9 Q. Okay. And you transported him 10 from the police department to the Autauga 11 County Jail?</p> <p>12 A. No, sir. He was released from 13 there.</p> <p>14 Q. Okay. Did you have a conversation 15 with him?</p> <p>16 A. Yes, sir, I did.</p> <p>17 Q. What was the conversation 18 concerning?</p> <p>19 A. It was lot of different things. 20 Do you have any specific question?</p> <p>21 Q. How far was the check point from 22 the Autaugaville Police Department?</p> <p>23 A. Well, if I was correct on the</p>	<p>1 A. Sir, I don't have to get 2 permission. That's determined by me as far 3 as once he signs his either bond or his 4 citations or whatever he needs to do to 5 ascertain the ability to be let go.</p> <p>6 Q. Well, did he sign any bond?</p> <p>7 A. No. Once I went inside the 8 department and pulled the warrant and 9 noticed that it was on -- involving an 10 officer that was no longer at the agency, I 11 advised him that I was just going to write 12 him a citation for driving while suspended 13 that evening and release him, and that the 14 next day, I would take the warrant back to 15 the clerk and advise for it to be dismissed.</p> <p>16 Q. Which officer did it involve?</p> <p>17 A. Again, I'd have to reflect on the 18 records. But I believe it was Officer 19 McCollum that had issued the original 20 citation.</p> <p>21 Q. Officer McCollum?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Let's see if we can find that</p>
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<p>1 location that I believe that it occurred at, 2 it would be within a two mile -- less than a 3 two mile radius, sir.</p> <p>4 Q. Did you discuss this pending 5 lawsuit with Mr. Matthews?</p> <p>6 A. I did, sir. After he brought it 7 up.</p> <p>8 Q. You say he brought it up?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Did he have handcuffs on him?</p> <p>11 A. I do not recall. I want to say 12 that I believe I did not handcuff him. I 13 mean, I let him out of his handcuffs once we 14 got back to the police department. He would 15 have been handcuffed during transportation.</p> <p>16 But I believe once I actually got 17 back after I secured the warrant and got it 18 in hand and knew I was going to release him 19 from the police department, that I 20 unhandcuffed him. But again, that was a 21 long time ago, sir.</p> <p>22 Q. Who gave you permission to let him 23 go?</p>	<p>1 citation. Why did you let him go after you 2 determined that Officer McCollum issued the 3 citation?</p> <p>4 A. Because Officer McCollum -- we did 5 not know his whereabouts when he left. He 6 up and left kind of at the spur of the 7 moment without finishing out his notice. 8 Did not know his whereabouts and location.</p> <p>9 And by constitutional right, the 10 defendant has the right to confront his 11 accuser. And we did not have the ability to 12 provide his accuser in court.</p> <p>13 Q. Was the arrest warrant -- How did 14 you find out about the arrest warrant?</p> <p>15 A. We have a warrant list that we go 16 by that's printed out by the municipal court 17 clerk.</p> <p>18 Q. How long was this after Officer 19 McCollum left?</p> <p>20 A. Rephrase, sir.</p> <p>21 Q. How long was this arrest on July 22 the 3rd after Officer McCollum left?</p> <p>23 A. I don't know, sir. I'd have to</p>

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<p style="text-align: right;">Page 49</p> <p>1 reflect back on the record as to what 2 citation that he received from Officer 3 McCollum, the date it was written, to the 4 date -- 5 Q. I think you misunderstood the 6 question. My question was, when did Officer 7 McCollum leave? 8 A. I'd have to reflect back on the 9 records, sir. 10 Q. So you don't know when Officer 11 McCollum left the Town of Autaugaville? 12 A. I'd have to go back to his 13 personnel file and look at his record to 14 give you the specific date, sir. 15 Q. This is what has been furnished to 16 me as Officer McCollum's personnel file. 17 And if it's in his personnel file, if it's 18 any different from that, since you know the 19 personnel file -- 20 MR. HOWARD: Let me. 21 MR. DEBARDELABEN: I'll give you 22 the Bates stamp on them. 23 Q. I was just asking you to tell me,</p>	<p style="text-align: right;">Page 51</p> <p>1 A. Sir, I keep a copy of everybody's 2 personnel files in my desk. And a copy of 3 that information is also given to our city 4 clerk. So there's two actual personnel 5 files, one that I keep in my office for my 6 records and one that is given to the town 7 clerk for the City records. 8 Q. So there's two personnel files and 9 there's one kept by you? 10 A. Yes, sir. I keep a copy of all 11 the officers' personnel files. 12 Q. And one kept by the town clerk? 13 A. Yes, sir. 14 Q. Any difference in them? 15 A. Well, there are some things in 16 this one that you have right here that I 17 have in mine that you do not have. 18 Q. What do you keep that I do not 19 have in that one? 20 A. She should have received a copy of 21 everything that I had. But the only other 22 things would be -- the only thing she 23 wouldn't receive a copy of is if I made</p>
<p style="text-align: right;">Page 50</p> <p>1 based on the personnel file I requested and 2 y'all furnished me -- and I gave you the 3 personnel file -- when did McCollum leave. 4 A. That's not -- It's not in that 5 personnel file right there. 6 Q. You mean those personnel files 7 that I haven't been furnished after I -- 8 MR. HOWARD: Wait a minute, Jim. 9 You haven't requested personnel files. 10 MR. DEBARDELABEN: Yes, I did. 11 MR. HOWARD: I'll go get the 12 request. Those are included in my initial 13 disclosures. You asked for the traffic 14 tickets from one day to the next. 15 MR. DEBARDELABEN: Okay. I will 16 request personnel files. 17 MR. HOWARD: Okay. And I thought 18 I had everything. 19 MR. DEBARDELABEN: You and I will 20 argue about that. 21 Q. So there are personnel files that 22 have not been disclosed to me in the initial 23 disclosures?</p>	<p style="text-align: right;">Page 52</p> <p>1 notes on the side of the folder. 2 Q. Okay. 3 A. Personal notes that I made on the 4 side of the folder. She would just have a 5 copy of his applications, disciplinary 6 actions, which there was -- I believe there 7 was more than that one. 8 Q. Okay. Now, which copy of the 9 personnel file is this? 10 A. I do not know, sir. 11 Q. You do not know. This is not the 12 one you keep in your file, is it? 13 A. I would say it's not because it 14 doesn't have everything that I have inside 15 my folder. So I would say that that may 16 have come from the clerk. 17 Q. All right. So you don't know when 18 Mr. McCollum left? 19 A. I do not know the specific date, 20 no, sir. 21 Q. Do you know the month? 22 A. No, sir. 23 Q. Okay. Do you know the year?</p>

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<p>1 A. I believe Officer McCollum left in 2 the year 2006. 3 Q. 2006. Do you know if it was 4 winter or spring? 5 A. No, sir. I don't want to 6 speculate. 7 Q. Okay. 8 A. Officers come and go. I don't 9 keep up. 10 Q. Okay. So the conversation between 11 you and Mr. Matthews, there's no one there 12 except you and he to verify or not verify; 13 is that correct? 14 A. It's videotaped, sir. 15 Q. You've got a videotape? 16 A. Yes, I do. 17 Q. You videotape all the arrests? 18 A. Yes, sir. We activate our camera 19 any time we make a traffic stop or make a 20 arrest or when the blue lights are turned 21 on, it's automatically activated. 22 Q. So how long do you keep these 23 videotapes?</p>	<p>1 MR. HOWARD: All of them? 2 MR. DEBARDELABEN: Yes. I just 3 want to view them. And I can view them up 4 at -- 5 MR. HOWARD: Do we have all of 6 them? How many tapes are we -- 7 THE WITNESS: Like I said, some of 8 them were -- they've been reused if there 9 was no arrest on them. 10 MR. HOWARD: We will give you 11 access to what we have. 12 MR. DEBARDELABEN: All right. 13 MR. HOWARD: We will not erase any 14 from right now. Don't erase any, even if 15 you have to go buy some tapes. If you have 16 reused some that you -- 17 THE WITNESS: So what I do from 18 here, until he gets a chance to view them, 19 is use all brand new tapes. 20 MR. HOWARD: Just use all brand 21 new tapes and keep what you've got. 22 Q. Who has custody of those tapes? 23 A. They are kept in the evidence</p>
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<p>1 A. Well, if there's no arrest on 2 them, we'll keep them for three months 3 before we reuse them again. If there's an 4 arrest on them, we'll keep it until they go 5 to court or deposition and then we'll 6 approximately keep them for another -- I 7 just changed my policy on this. But I think 8 we about average keep them for a year on 9 that. 10 Q. Okay. So if they go to court, you 11 keep them a year after they go to court? 12 A. Approximately. Sometimes longer. 13 It just depends on the case. If there's 14 anything that I believe that somebody -- 15 well, I don't want to speak in ignorance. 16 I'd have to go back and reflect on 17 the laws as far as that is concerned. But 18 your client was the one that brought it up, 19 sir. 20 MR. DEBARDELABEN: We're going to 21 request all videotapes of all arrests made 22 by the officers named in this suit, 23 including Chief Johnson.</p>	<p>1 room. And I'm responsible for them. 2 MR. HOWARD: How many different 3 tapes do you have? 4 THE WITNESS: I think thirty-five, 5 approximately thirty-five. 6 MR. HOWARD: Just use all new 7 tapes from this point forward until Mr. 8 Debardelaben gets a chance to review them. 9 MR. DEBARDELABEN: I can do it 10 within the next month. 11 MR. HOWARD: Okay. That's fine. 12 THE WITNESS: It will take you a 13 lot longer than that to view them. 14 MR. HOWARD: Well, we've only got 15 four or five officers to review. Do you 16 have them -- Do you have them classified by 17 officers? 18 THE WITNESS: No. They are not 19 done that way. The only way I would be able 20 to tell you if we have a tape from a 21 particular officer, is I'd have to go back 22 and view every arrest that they made and 23 then go back on their arrest report.</p>

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<p>1 And they will log under their</p> <p>2 notes what tape was used for that arrest.</p> <p>3 If that tape hasn't been reused since then,</p> <p>4 due to the fact if the person has already</p> <p>5 pled guilty or gone to court in the time</p> <p>6 frame involved, then we'll still have some</p> <p>7 videotape of that officer on traffic stops.</p> <p>8 So that's how I can determine.</p> <p>9 Q. Well, I'll get up there and watch</p> <p>10 them. There's got to be a camera room.</p> <p>11 A. I have a camera room.</p> <p>12 MR. HOWARD: That's not a problem.</p> <p>13 Q. I'll get up there and watch them.</p> <p>14 A. As long as you're willing to pay</p> <p>15 for the expenses of all that, sir.</p> <p>16 Q. What expenses?</p> <p>17 A. Well, in order for you to be in</p> <p>18 that room, I have to be there in that room</p> <p>19 with you.</p> <p>20 Q. I'll tell you what. I'm just</p> <p>21 going to subpoena them. I'm going to</p> <p>22 subpoena copies of all made to you and y'all</p> <p>23 can make copies of all the tapes.</p>	<p>1 Q. That's right.</p> <p>2 MR. HOWARD: I still think I'll</p> <p>3 just put you in a room with him and you can</p> <p>4 watch them up there.</p> <p>5 MR. DEBARDELABEN: Well, you know</p> <p>6 --</p> <p>7 MR. HOWARD: We'll do it that</p> <p>8 way.</p> <p>9 Q. Now, can you -- Can a ticket be</p> <p>10 looked at for a speeding ticket if this -- a</p> <p>11 ticket issued for speeding -- and it be</p> <p>12 determined it was by radar or if it was by</p> <p>13 any other way?</p> <p>14 A. Say that one more time, sir.</p> <p>15 Q. If I have an Alabama Uniform</p> <p>16 Traffic ticket and complaint and it's on</p> <p>17 speeding, can you tell if that ticket was</p> <p>18 issued pursuant to radar or some other way?</p> <p>19 A. It's not -- There's not a box on</p> <p>20 the actual ticket that says was radar used.</p> <p>21 So there is no indication on the actual</p> <p>22 citation to state that a radar was used.</p> <p>23 There's no box for that field.</p>
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<p>1 A. Okay. As long as you pay for the</p> <p>2 expenses.</p> <p>3 MR. HOWARD: You and I can be</p> <p>4 there.</p> <p>5 MR. DEBARDELABEN: We'll just make</p> <p>6 copies of all the tapes. If he wants to be</p> <p>7 like that, then I will get them and I'll</p> <p>8 subpoena him and we'll sit down here and go</p> <p>9 over each and every one of them in person.</p> <p>10 Q. So you're going to be there one</p> <p>11 way or the other.</p> <p>12 A. That's fine, sir. But we do have</p> <p>13 an administrative right to request that you</p> <p>14 pay for that stuff, sir.</p> <p>15 Q. Sir, I'm going to subpoena you to</p> <p>16 bring the tapes to a deposition and you and</p> <p>17 I are going to watch them if it takes ten</p> <p>18 hours a day for the next thirty days. And I</p> <p>19 don't have to pay for that because you're a</p> <p>20 defendant in this lawsuit.</p> <p>21 A. Okay.</p> <p>22 Q. You got that. Thank you.</p> <p>23 A. Whatever you say, sir.</p>	<p>1 Q. Okay. So we can't look at a</p> <p>2 speeding ticket and tell whether or not</p> <p>3 radar was used; right?</p> <p>4 A. No, sir.</p> <p>5 Q. Okay.</p> <p>6 A. The officer would have to testify</p> <p>7 to that.</p> <p>8 Q. Now, does the officer have notes</p> <p>9 on each ticket they issue?</p> <p>10 A. If he made them or her.</p> <p>11 Q. Where would those notes be?</p> <p>12 A. It would be on a -- They are --</p> <p>13 there's four carbon copies. You have one</p> <p>14 that goes to the Court. You have one that</p> <p>15 stays with the officer. You have one that</p> <p>16 goes to the complainant. And I believe</p> <p>17 there's one more that goes to the State of</p> <p>18 Alabama.</p> <p>19 Q. Okay. And where would the</p> <p>20 officer's notes be?</p> <p>21 A. It would be on his record, sir,</p> <p>22 his personal records that he's allowed to</p> <p>23 keep.</p>

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1 **Q. When you say personal records he**
 2 **is allowed to keep, does he keep those**
 3 **records in his personal possession or in the**
 4 **possession of the police department?**
 5 A. Those records are his personal
 6 possession property.
 7 **Q. So when that officer leaves the**
 8 **employment of a police department, he takes**
 9 **the records with him?**
 10 A. If he so -- If he or she so wishes
 11 to do so. They may shred them, not take
 12 them with them. I've got copies of the
 13 majority of every traffic ticket I've ever
 14 written in my career, my own personal copies
 15 that I keep. And it's referred to on the
 16 ticket as officer's copy.
 17 **Q. So for every ticket you've ever**
 18 **written, you have that person's social**
 19 **security number?**
 20 A. I didn't say that, sir.
 21 **Q. Well, don't all the Alabama**
 22 **Uniform Traffic ticket and complaint --**
 23 A. It may not be on their driver's

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1 license, sir. Like the new ones don't have
 2 it on the driver's license. They may not
 3 know it or remember it. Some will, some
 4 will not.
 5 **Q. And you have their driver's**
 6 **license number?**
 7 A. Yes, sir. It will be on there,
 8 the driver's license number if they had one.
 9 Sometimes they have file numbers that are
 10 issued by the State. Sometimes they've
 11 never even had a license, so they won't have
 12 a file number nor would they have a license
 13 number.
 14 **Q. And this information is turned**
 15 **over to the individual officer to do with it**
 16 **as he pleased?**
 17 A. It's his officer's copy.
 18 **Q. Okay.**
 19 A. That's done --
 20 MR. HOWARD: Just answer his
 21 question. And you did.
 22 **Q. Do you know if -- Do you go by**
 23 **that because it's just on the ticket where**

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1 **it says officer's copy?**
 2 A. Do I go by that? What do you
 3 mean?
 4 **Q. Yes, sir. You told me it's the**
 5 **officer's copy. So it's given to the**
 6 **officer.**
 7 A. Well, the officer keeps it. I
 8 don't give it to them. That's something
 9 that they keep.
 10 **Q. Now, is there any rules or**
 11 **regulations you know of any place or any**
 12 **statutes you know of any place that allows**
 13 **an officer to keep that as his personal**
 14 **property?**
 15 A. Well, sir, I would imagine it
 16 wouldn't be --
 17 MR. HOWARD: Don't guess. It's a
 18 yes or no question.
 19 A. No.
 20 **Q. Okay.**
 21 A. No, sir.
 22 **Q. Have you ever seen anything that**
 23 **says the officer can keep a copy of the**

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1 **ticket for his personal property?**
 2 A. I've never seen anything in
 3 writing, no, sir.
 4 **Q. In every other place you've been**
 5 **employed as a police officer, did they allow**
 6 **you to keep the ticket as your personal**
 7 **property?**
 8 A. Yes, sir.
 9 **Q. How often would your officers that**
 10 **we're here on today -- and I'm talking about**
 11 **Martin and Wadsworth and McCollum and Mr.**
 12 **Segers -- be allowed to patrol in a patrol**
 13 **vehicle without anyone riding with them?**
 14 A. How often would they be allowed?
 15 **Q. Yes.**
 16 A. I'm sure they would work their
 17 scheduled shift once they are released, once
 18 I feel comfortable for them to ride by
 19 themselves. Whenever they are scheduled to
 20 work is when they will work.
 21 **Q. When you were not in -- excuse**
 22 **me. Let me ask this. When did you move to**
 23 **Prattville?**

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<p>1 A. I know it was in the summertime. 2 And it was in I believe the year 2005. 3 Q. Okay. Prior to then -- let's put 4 it this way. When you weren't on duty in 5 Autaugaville, you were on your off duty 6 hours, how would these officers who weren't 7 certified be supervised? 8 A. Well, they would -- If they had an 9 issue that arised, they would contact me via 10 the link or cell phone and ask me a question 11 in relation to whatever their problem was. 12 Q. So it would be wherever you were 13 located? 14 A. Yes, sir. 15 Q. Are you still in the Guard? 16 A. Yes, sir, I am, sir. 17 Q. Do you go off for training? 18 A. Yes, I do, sir. 19 Q. Do you drill one weekend out of 20 the month? 21 A. Yes, sir. 22 Q. Where do you drill? 23 A. Well, my location down here until</p>	<p>1 certification to determine that question. 2 Q. Do you have your orders? It shows 3 up in your personnel file, doesn't it? 4 A. With the Army, they may have a 5 copy of it. I could probably try to locate 6 it myself or online. They have access to 7 personnel files that we can go to to try to 8 get it. 9 But I don't keep a copy of my 10 orders in a file somewhere of every time I 11 was sent somewhere. 12 Q. You don't have a copy of your 13 orders to go in your personnel file when you 14 were on two weeks active duty or three weeks 15 active duty where you get paid by the City 16 and by the -- 17 A. I don't know. I don't go look at 18 my personnel file inside Valerie's office. 19 Q. You don't turn in a copy of your 20 orders when you go -- 21 A. I may or may have not. 22 Q. I know how to get those. So you 23 don't know when you were on active duty</p>
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<p>1 recently was in Wetumpka, Alabama. 2 Q. Okay. Where do you go to 3 training? 4 A. Well, that's determined by the 5 Guard, where the location we go to. 6 Q. 2004, where did you go to summer 7 camp? 8 A. I don't recall if I even made it 9 to summer camp that year. 10 Q. 2005, where did you go to summer 11 camp? 12 A. I believe we went to Anniston. 13 Q. Anniston? 14 A. Correct. 15 Q. These officers that were 16 uncertified when you were in summer camp, 17 how were they supervised? 18 A. Sir, I don't know while I was in 19 summer camp that there was an uncertified 20 officer working there on a shift. Again, 21 I'd have to go back to the dates I was in 22 summer camp and go back to the officer that 23 was working and look at the dates of his</p>	<p>1 whether or not you had any uncertified 2 officers working at the Town of 3 Autaugaville? 4 A. No, sir. 5 Q. How long does an officer have to 6 get certified? 7 A. I'd have to reflect back on the 8 rule to give you that specific. 9 Q. Okay. Whose responsibility is it 10 to see that the officer gets certification 11 within the time limit required by APOSTC? 12 A. Mine, sir. 13 Q. Okay. Do you make the 14 determination of when that officer goes off 15 to training? Let's put it this way. You 16 have to register him with APOSTC, don't you? 17 A. I have to send their packet in to 18 -- I believe one copy of the packet goes to 19 the Alabama Peace Officers Standards and 20 Training Commission and I believe another 21 section of it goes to the actual academy 22 itself. 23 Q. What academy does the Town of</p>

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<p style="text-align: right;">Page 69</p> <p>1 Autaugaville use to send its officers to? 2 A. We've used two primarily. We've 3 used Tuscaloosa and we have sent officers to 4 Montgomery. 5 MR. DEBARDELABEN: That's all I 6 have. 7 EXAMINATION BY MR. HOWARD: 8 Q. When you wrote a speeding -- When 9 an officer writes a speeding ticket, is he 10 controlling the speed of traffic? 11 A. Is he controlling it? 12 Q. Yes. Is he telling him to slow 13 down? 14 A. You know, presence, sometimes 15 people will slow down if they see the 16 officer. He doesn't have any direct control 17 of being able to get people to slow down or 18 stop. 19 Q. When he writes a ticket, is he not 20 telling that person to slow down and to 21 control the speed of traffic? 22 A. He may or may not advise the 23 person that they need to obey the speed</p>	<p style="text-align: right;">Page 71</p> <p>1 CERTIFICATE 2 3 STATE OF ALABAMA) 4 MONTGOMERY COUNTY) 5 6 I hereby certify that the above 7 and foregoing deposition was taken down by 8 me in stenotype, and the questions and 9 answers thereto were transcribed by means of 10 computer-aided transcription, and that the 11 foregoing represents a true and correct 12 transcript of the testimony given by said 13 witness upon said hearing. 14 I further certify that I am 15 neither of counsel, nor of kin to the 16 parties to the action, nor am I in any wise 17 interested in the result of said cause. 18 19 20 ----- 21 CINDY WELDON 22 23</p>
<p style="text-align: right;">Page 70</p> <p>1 limits. I don't -- Again, I don't know what 2 they say every single time they are on 3 traffic stops. 4 MR. HOWARD: That's all. 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>	

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